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HAROLD B. WIL

In the Supreme Court
OF THE
United States

OCTOBER TERM, 1955

No. 18

JEW SING,
Petitioner,
vs.
BRUCE G. BARBER, District Director, Immigration and Naturalization Service, San Francisco District,
Respondent.

On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.

MOTION TO VACATE OR REVERSE JUDGMENT AND REMAND FOR DISMISSAL ON SUGGESTION OF MOOTNESS.

JOSEPH S. HERTOGS,
580 Washington Street, San Francisco 11, California,
Attorney for Petitioner.

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Petitioner hereby respectfully files this motion to vacate or reverse judgment and remand for dismissal on the suggestion of mootness, and invites the attention of the Court to the following:

1. On November 23, 1954, after judgment of the Court of Appeals for the Ninth Circuit in the

instant case, petitioner filed a new application for naturalization under Section 329(a) of the Immigration and Nationality Act.

2. On January 10, 1955, this Court granted petitioner's petition for writ of certiorari.

3. On January 19, 1955, after granting of certiorari in this case, the designated naturalization examiner of the Immigration and Naturalization Service recommended that the petition for naturalization be granted.

4. On October 10, 1955, this Court entered an order postponing further consideration of the case until petitioner's application for naturalization had been acted upon by the District Court.

5. On October 19, 1955, petitioner was admitted to United States citizenship.

In view of the foregoing, it is suggested that the issues presented in the instant matter have become moot. To preserve the rights of all parties concerned, petitioner prays that the decision of the Court below be reversed or vacated, and that the matter be remanded with instructions to dismiss on the suggestion of mootness. *United States v. Munsingwear,* 340 U.S. 36, 39-40.

Dated, San Francisco, California,
October 31, 1955.

Respectfully submitted,
JOSEPH S. HERTOGS,
Attorney for Petitioner.

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No. 18

JEW SING, PETITIONER

v.

BRUCE G. BARBER, DISTRICT DIRECTOR, IMMIGRATION AND NATURALIZATION SERVICE, SAN FRANCISCO DISTRICT

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

MEMORANDUM SUGGESTING THAT THE CAUSE IS MOOT

This case involves a habeas corpus proceeding by which petitioner, who had been excluded as an alien, sought to have his departure stayed on the ground that the Attorney General had improperly refused to consider his claim that, if sent back to China, he would be subject to persecution.

As set forth in the government's motion to defer argument in this cause, petitioner who, although excluded, had been paroled by the immigration authorities for the purpose of enabling him to petition for naturalization, applied for citizenship

under Section 329(a) of the Immigration and Nationality Act of 1952 on the basis of his service in the United States army. On October 19, 1955, he was admitted to citizenship by the United States District Court for the Northern District of California. The exclusion order is therefore no longer of valid effect and the issue presented by the petition for certiorari has become moot.

Accordingly, the judgment below should be vacated and the case remanded to the District Court with direction to dismiss the habeas corpus petition upon the ground that the cause is moot. Cf. *Sawyer* v. *Dollar,* 344 U.S. 806; *United States* v. *Munsingwear, Inc.,* 340 U.S. 36; *McKay* v. *Clackamas County,* 349 U.S. 909.

Respectfully submitted,

SIMON E. SOBELOFF,
Solicitor General.

OCTOBER, 1955

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